

KAGEN, CASPERSEN & BOGART PLLC
ATTORNEYS ADMITTED IN NEW YORK, NEW JERSEY AND CALIFORNIA

757 THIRD AVENUE, 20TH FLOOR
NEW YORK, NEW YORK 10017
(212) 880-2045
(646) 304-7879 (FACSIMILE)

October 14, 2021

By ECF Filing

Honorable Andrew L. Carter, Jr.
United States District Court
Southern District of New York
40 Foley Square, Room 13067
New York, NY 10007

Re: *In re Bit Digital, Inc. Securities Litig.* (1:21-cv-00515-ALC)

Hon. Andrew L. Carter, Jr.

I am counsel for Defendants in the above-referenced action and write further to parties' September correspondence concerning our request for a pre-motion conference regarding Defendants' anticipated motion to dismiss Plaintiffs' consolidated class action complaint (the "CAC").

As the Court may recall, on September 3, 2021, Defendants filed a request for a pre-motion conference pursuant to Individual Practice Rule 2(A) that set forth Defendants' bases to move to dismiss the CAC. (Doc. No. 28.) Six days later, Plaintiffs filed a letter setting forth their arguments as to why the Court should: (1) deny Defendants' request for a pre-motion conference; and (2) order that any motion to dismiss be filed no later than September 13, 2021. (Doc. No. 29.) In response, we explained that we believed that, pursuant to this Court's Individual Rules, a pre-motion conference was still required, and expressed that we were prepared to file our motion to dismiss the CAC within 30 days of Plaintiffs indicating that they intended to amend the CAC. (See Doc. No. 30.) Later, Plaintiffs indicated that they "do not intend to file an amended pleading based on Defendants' pre-motion letter." (Doc. No. 31.)

Since that correspondence, the Court has not set a date for a pre-motion conference to discuss any matters the Court may wish to address, as the Court's Individual Rules contemplate. (See Individual Practice Rule 2(A) ("A pre-motion conference with the Court is required before making any motion.") Accordingly, Defendants respectfully renew their request for the setting of a pre-motion conference so that this case may proceed on a schedule convenient to the Court. Defendants are prepared to participate in any such conference as soon as next week, with any filing of our motion to dismiss the CAC to follow soon thereafter.

Respectfully Submitted,

/s/ Stuart Kagen

Stuart Kagen